

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA**

Joseph Burns, #31338-047,

Petitioner,

v.

M.V. Joseph, Warden

Respondent.

Case No. 4:25-cv-1373-RMG

ORDER

Before the Court is the Report and Recommendation (R&R) of the Magistrate Judge (Dkt. No. 21) recommending that the Court dismiss this habeas petition brought pursuant to 28 U.S.C. §2241 without requiring the Respondent to respond. The petition involves a claim by Petitioner that he should receive credit with his federal sentence for time previously served for a state offense. The Magistrate Judge explained in the R & R that no federal sentence can commence before it is imposed and that Petitioner is not entitled to any credit for a state sentence imposed and served before the federal sentence commenced. (*Id.*). Petitioner filed no objections to the R & R.

I. Legal Standard

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility for making a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The Court is charged with making a *de novo* determination only of those portions of the Report to which specific objections are made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C.

§ 636(b)(1). In the absence of specific objections, the Court reviews the matter only for clear error. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’”) (quoting Fed. R. Civ. P. 72 advisory committee's note).

II. Discussion

The Magistrate Judge accurately summarized the factual and legal issues involved in Petitioner’s habeas petition and correctly concluded that he is entitled to no credit with his federal sentence for time served for a previous state sentence.

III. Conclusion

In light of the foregoing, the R&R is **ADOPTED** as the Order of the Court (Dkt. No. 21) and the petition is **DISMISSED** without the necessity of Respondent filing a response.

AND IT IS SO ORDERED.

s/ Richard Mark Gergel
Richard Mark Gergel
United States District Judge

June 24, 2025
Charleston, South Carolina